

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p style="text-align: center;">Parole Board Reviews and Recommendations</p>		<p style="text-align: center;">Page 1 of 7</p>								
<p style="text-align: center;">CHAPTER: PROGRAMS – CLASSIFICATION AND CASE PLANNING</p>	<p style="text-align: center;">#371.25</p>	<p>Supersedes: #371.25, dated 01/01/2021</p>									
<p>Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: “B” – Anyone may have access to this document.</p>											
<p>Approved:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 40%; border: none;"><u>SIGNED</u></td> <td style="width: 20%; border: none;"><u>12/02/2022</u></td> <td style="width: 20%; border: none;"><u>01/01/2023</u></td> <td style="width: 20%; border: none;"></td> </tr> <tr> <td style="border: none;">Nicholas J. Deml, Commissioner</td> <td style="border: none;">Date Signed</td> <td style="border: none;">Date Effective</td> <td style="border: none;"></td> </tr> </table>				<u>SIGNED</u>	<u>12/02/2022</u>	<u>01/01/2023</u>		Nicholas J. Deml, Commissioner	Date Signed	Date Effective	
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PURPOSE

This policy establishes the process to review and refer individuals under the custody or supervision of the Department of Corrections (DOC) to the Parole Board.

AUTHORITY

28 V.S.A §§ 204b, 353, 362, 402, 403, 501, 501a, 502, and 725.

POLICY

The DOC’s policy is to supervise individuals in the least restrictive setting consistent with public safety. It is also DOC policy to recommend appropriate and eligible individuals for parole at their minimum release date. Parole is a legal status that enables DOC to provide services and supervision commensurate with the individual’s risk and severity of offense.

GENERAL PROCEDURES

A. Eligibility for Parole Review at Minimum Release Date – Facility

1. Most incarcerated individuals are eligible for parole consideration once they have reached their minimum release date.
 - a. Individuals supervised for a sexual offense who are designated high-risk pursuant to 28 V.S.A. § 204b are not eligible for parole or presumptive parole until the expiration of 70 percent of their maximum sentence for the qualifying offense.
 - b. Incarcerated individuals with a zero, or no, total effective minimum sentence are eligible for parole consideration anytime within 12 months after commitment to the Commissioner of Corrections.
2. Incarcerated individuals meet the presumptive parole eligibility process criteria if they:
 - a. Have not acquired a new criminal conviction while incarcerated or on supervision for the current sentence;
 - b. Have no outstanding warrants, detainers, commitments, or pending charges;
 - c. Have been compliant with required services and risk-reduction programming:
 - i. For the past 90 days; or
 - ii. Throughout their incarceration, if they have been incarcerated for less than 90 days;
 - d. Have no major disciplinary rule violation, pending or adjudicated:
 - i. For the past 12 months; or
 - ii. Throughout their incarceration, if incarcerated for less than 12 months;
 - e. Have not had parole revoked on their current sentence; and
 - f. Are not serving a sentence for committing a crime specified in 33 V.S.A. § 5204(a) (i.e., The Big 12).
3. Staff shall positively recommend incarcerated individuals for parole if they are eligible for release on Community Supervision Furlough (CSF), in accordance with the policy on community supervision, unless denial is approved by a central case staffing.
4. Any individual supervised for a sex offense who is otherwise eligible for parole shall not be recommended for parole without approval through a case staffing determination.

B. Eligibility for Parole Review at Minimum Release Date – Field

1. Supervised individuals are eligible for parole consideration once they have reached their minimum release date.
2. Supervised individuals with a zero, or no, total effective minimum sentence are eligible for parole consideration anytime within 12 months after commitment to the Commissioner of Corrections.
3. Staff shall complete the presumptive parole eligibility process for all supervised individuals, except those designated high-risk pursuant to 28 V.S.A. §204b, once they have reached their minimum release date.
4. Supervised individuals meet the presumptive parole eligibility process criteria if they:
 - a. Have not acquired a new criminal conviction while on supervision for the current sentence;
 - b. Have no outstanding warrants, detainers, commitments, or pending charges;
 - c. Are on Pre-Approved Furlough (PAF) and have not been determined to have committed a significant violation by a case staffing in the past 90 days; and
 - d. Are not serving a sentence for committing a crime specified in 33 V.S.A. § 5204(a) (i.e., The Big 12).
5. Any individual supervised for a sex offense who is otherwise eligible for parole shall not be released without approval through a case staffing determination.

C. Referral and Recommendation for Parole at Minimum Release Date

1. Ninety days prior to the minimum release date of an individual under the custody or supervision of the DOC, the responsible Corrections Services Specialist (CSS) or Probation and Parole Officer (PPO) shall conduct the presumptive parole eligibility review process outlined above in section A. or B.
2. Regardless of eligibility, the CSS or PPO shall start preparing the parole summary.
3. The Central Case Staffing Determination Committee shall review all cases:
 - a. Of individual supervised for a sex offense who meets the presumptive parole eligibility; or
 - b. In which there may be reason to refute presumptive parole if, based on clear and convincing evidence, there is a reasonable probability:

- i. The individual's release would result in a detriment to the community; or
 - ii. The individual is not willing and capable of fulfilling the obligations of parole.
4. If an individual's minimum sentence is shorter than 90 days, the DOC may concurrently pursue furlough and parole eligibility.
5. 60 days prior to the individual's minimum release date, the appropriate CSS or PPO shall submit the appropriate parole summary (including recommended special conditions requested by the DOC) to the Parole Board for each:
 - a. Individual meeting the presumptive parole eligibility criteria; and
 - b. Eligible individual for whom the DOC refutes presumptive parole based on the Central Case Staffing Determination Process.
6. Staff shall provide the following recommendations:
 - a. A positive parole recommendation for parole if DOC would otherwise release the incarcerated individual on CSF. This includes recommending incarcerated individuals for parole if they did not meet the presumptive parole eligibility criteria;
 - b. For individuals sentenced to Supervised Community Sentence (SCS) who have reached their minimum for:
 - i. A recommendation for discharge, if they have successfully completed all conditions imposed by the court and are compliant with community supervision on their SCS sentence; or
 - ii. A positive recommendation for parole, if they have not successfully completed all conditions;
 - c. A positive parole recommendation for individuals on PAF who have reached their minimum release date but do not meet the presumptive parole eligibility criteria for parole;
 - d. A positive parole recommendation for eligible individuals, excluding individuals supervised for a sex offense, for parole in the following circumstances:
 - i. The individual is accepted by a receiving state for an out of state placement through the Interstate Compact for Adult Offender Supervision (ICAOS); or
 - ii. The individual can be paroled to another state or Federal authority, if:
 - a) They meet parole requirements in Vermont;

- b) The other authority has filed a detainer with DOC; and
 - c) If sentenced in the other state or Federal authority, the sentence is concurrent to the Vermont sentence; and
 - e. A positive parole recommendation for individuals with Release Sensitive Notification (RSN) cases or cases that require the individual to register as a sex offender (including previous convictions) for parole if they:
 - i. Are eligible for parole (as defined in the sections above);
 - ii. Meet the requirements for their current status; and
 - iii. Are approved for parole by the Central Case Staffing Determination Committee.
7. If an individual referred for presumptive parole becomes ineligible based on the criteria outlined above in Sections A. or B. after the referral is made, the DOC will notify the Parole Board by updating the hearing type in the parole summary and communicating with Parole Board staff.

D. Subsequent Consideration for Parole

1. For individuals under the custody or supervision of the DOC who have been denied parole at their minimum release date, the Parole Board will:
 - a. Review the individual's record once every 12 months;
 - b. Interview the individual at the request of the DOC; and
 - c. Interview the individual annually, upon the individual's written request.
2. Following release to the community, a supervised individual must be compliant with the above criteria for the following timeframe to be eligible for a subsequent parole review:
 - a. 180 consecutive days, if they are supervised for a listed crime; or
 - b. 90 consecutive days, if they are supervised for a non-listed crime.
3. PPOs shall monitor their caseload to determine if a supervised individual on PAF or CSF meets the following criteria for a positive parole recommendation within the timeline specified in subsection 2 of this section:
 - a. They have not been lodged in a correctional facility and found guilty of notice of suspension (NOS);
 - b. They have no outstanding warrants, detainers, commitments, or pending charges; and
 - c. They have not violated a risk-related condition directly impacting public safety.

4. PPOs shall monitor their caseload to determine if a supervised individual on SCS meets the criteria following criteria for a discharge recommendation within the timeline specified in subsection 2 of this section:
 - a. They have no outstanding warrants, detainers, commitments, or pending charges;
 - b. They have not violated a risk-related condition directly impacting public safety; and
 - c. They have completed any required risk reduction programming.
5. When eligible for subsequent or annual review, the appropriate CSS or PPO shall submit the parole summary (including recommended special conditions requested by the PPO) to the Parole Board 30 days in advance of the review date.
6. Staff shall submit a positive recommendation for the following individuals:
 - a. Individuals sentenced to SCS (for discharge) when they have successfully completed all conditions imposed by the court and are compliant with community supervision on their SCS sentence;
 - b. Eligible individuals, excluding individuals supervised for a sex offense, in the following circumstances:
 - i. The individual is accepted by a receiving state for an out of state placement through the Interstate Compact for Adult Offender Supervision (ICAOS); or
 - ii. The individual can be paroled to another state or Federal authority, if:
 - a) They meet parole requirements in Vermont;
 - b) The other authority has filed a detainer with DOC; and
 - c) If sentenced in the other state or Federal authority, the sentence is concurrent to the Vermont sentence; and
 - c. Individuals with Release Sensitive Notification (RSN) cases, or cases that require the offender to register as a sex offender (including previous convictions), if they:
 - i. Are eligible for parole (as defined in the sections above);
 - ii. Meet the requirements for their current status; and
 - iii. Are approved for parole by the Central Case Staffing Determination Committee.

E. Victim Notification

1. Staff shall follow the victim notification procedures outlined in the DOC policy on victim/survivor services and support.
2. The Parole Board may decide to have a hearing in cases referred for an administrative review based on the presumptive parole review process if it determines that there is a victim, or victims. In such circumstances:
 - a. The Board notifies the DOC that a hearing will be held; and
 - b. DOC staff shall notify the victim(s)/survivor(s) and, if they wish to participate in the parole hearing, make arrangements with the Parole Board, in accordance with the policy on victim/survivor services and support.

F. Waivers

Individuals under the custody or supervision of DOC shall complete the appropriate waiver of parole consideration hearing/review form if they do not wish to attend the Parole Board hearing at their minimum release date.

1. The individual shall provide a reason on the form explaining why they are waiving their hearing.
2. Waivers may be issued only when the individual indicates an unwillingness to accept parole or declines to be interviewed by the Parole Board.
3. Staff shall encourage all eligible individuals under the custody or supervision of the to meet with the Parole Board.